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P.2-19

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

BY: Quana PayneDate: 10-08-04

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:  
THIEL et al.

Serial No.: 09/839,796                      Group: 1648  
Filed: April 9, 2001                      Examiner: S. Foley  
For: PESTIVIRUS MUTANTS AND VACCINES CONTAINING THE  
SAME

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)**

Attention: Office of Petitions  
Mail Stop Petitions  
Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (703) 872-9306

October 8, 2004

Sir:

04/08/2005 CKHLOK 00000015 022334 09839796

In response to the Notice of Abandonment of November 21, 2003 and the telephone communication of October 4, 2004 with Examiner Foley, Applicants respectfully submit the following requests and remarks.

The above-identified application became abandoned for failure to pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. The date of abandonment is the day after the expiration date of the period set for payment, September 13, 2003.

#1453

11/30/2004 CTHORAS2 000000010022334  
01 FC:1504 1370.00 DA

Attorney Docket NO. I/2000.552 US

APPLICANTS HEREBY PETITION FOR REVIVAL OF THIS APPLICATION

A grantable petition requires the following items:

- (1) Petition Fee;
- (2) Issue Fee;
- (3) Terminal Disclaimer with disclaimer fee, if application filed before June 8, 1995.
- (4) Statement that the entire delay was unintentional.

(1) Petition Fee

Please charge the petition fee of \$1370 to Deposit Account NO. 02-2334 as pursuant to 37 C.F.R. §1.17(m).

(2) Issue Fee

Please charge the issue fee of \$1370 to Deposit Account NO. 02-2334 as required by the USPTO. Applicants have attached an Issue Fee Transmittal filed September 12, 2003 containing all relevant information.

(3) Terminal disclaimer

The above-identified application was filed after June 8, 1995; therefore, no Terminal Disclaimer with Disclaimer fee is required.

(4) Statement

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable

Attorney Docket NO. I/2000.552 US

petition under 37 C.F.R. §1.137(b) was unintentional.

Applicants respectfully assert that Applicants attempted to timely pay the Issue Fee on September 12, 2003. This action is evidenced by the enclosed Issue Fee Transmittal with Certificate of Transmission dated September 12, 2003 and the fax receipt showing the successful transmission of the Issue Fee Transmittal on September 12, 2003.

Applicants after receiving the Notice of Abandonment mailed November 11, 2003 filed by facsimile a Petition to Withdraw Holding of Abandonment Under 37 C.F.R. §1.181(a) on December 5, 2003. Applicants have attached the Petition with the fax receipt showing the successful transmission of the Petition.

While reviewing the Patent Department files, Applicants determined that the USPTO has not responded to the Petition as of September 24, 2004. Applicants then called Examiner Foley to inquire as to the status of the application. In a conversation of October 4, 2004, Examiner Foley stated that the Palm System indicated the application abandoned and had no indication that the petition was present in the file. Examiner Foley also noted that the PAIR system indicated that an ISSUE FEE transmittal was filed September 12, 2003.

Applicants' representative reviewed the Issue Fee transmittal and discovered for the first time that the Deposit Account No. had been unintentionally left off the Issue Fee transmittal; thus, Applicants had unintentionally failed to pay the Issue Fee.

Applicants were diligent in responding to the Notice

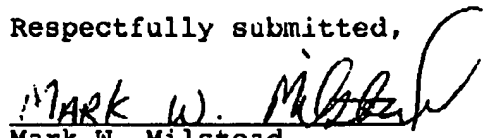
Attorney Docket NO. I/2000.552 US

Abandonment by filing a Petition on December 5, 2003. The actual clerical error on the Transmittal fee was not discovered until October 4, 2004. Applicants upon this knowledge are filing the instant Petition to Revive for Unintentional Abandonment.

Conclusion

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2334 for any additional fees required under 37 C.F.R. \$1.16 or under 37 C.F.R. \$1.17; particularly extension of time fees.

Respectfully submitted,

  
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## Enclosure:

Petition for Revival of Application for Patent Abandoned  
Unintentionally of 10/08/2004 (4 pages)  
Petition to Withdraw Holding of Abandonment of December 5, 2003 (3  
pages)  
Copy of Issue Fee Transmittal of September 12, 2004 faxed on  
12/05/2004 (1 page)  
Copy of Fax History Report of September 12, 2004 faxed on  
12/05/2004 (1 page)  
Copy of Cover Sheet of December 5, 2003 (1 page)  
Copy of Fax History Report of December 5, 2004 (1 page)  
Copy of Issue Fee Transmittal of September 12, 2004 (1 page)  
Copy of Fax History Report of September 12, 2004 (1 page)